

Memorandum

City of Tempe
Community Development Department



To: Mayor and City Council
Through: Chris Salomone, Community Development Manager
From: Jan Koehn, Neighborhood Enhancement Administrator
Date: October 31, 2007
Subject: Proposed Code Changes to Tempe City Code, Chapter 21, Nuisances and Property Enhancement

The Neighborhood Enhancement section is proposing several text amendments to Tempe City Code, Chapter 21, Nuisances and Property Enhancement. These changes are based upon community feedback, comments from the Ad-Hoc Rental Housing Task Force and staff experience with the code and common complaints received.

The most significant change proposed is that of defining a Habitual Offender, creating an expedited process for Habitual Offenders, and creating a separate penalty for persons convicted of being a Habitual Offender.

In addition to these changes, we are also proposing an increase in our fine schedule and amendments to the resolution that dictates the amount of time allowed to correct code violations that are not currently adopted by resolution.

Attached is a summary of the amendments proposed to Chapter 21, the proposed fine schedule and the proposed time frames for correction of rental housing violations and zoning code violations.

**Summary of Proposed Amendments
Nuisance and Property Enhancement Code
November, 2007**

All code references cited are to Tempe City Code, Chapter 21.

- Define a Habitual Offender as any person that on at least one prior occasion within a twelve (12) month period of adjudication has had:
 - (1) At least one conviction, either civil or criminal, or a default judgment entered, of a violation of this chapter; or
 - (2) Has had abatement action approved against any property the Habitual Offender owns.

Habitual Offenders are subject to an expedited enforcement process, including the ability to proceed directly with civil, criminal or abatement actions without providing written notification of the violation to the responsible party.

Staff is also proposing that Habitual Offenders be subject to an additional financial penalty of \$500. Monies collected from this penalty will be redirected to an account that will be used to subsidize the correction of code violations on properties owned by disadvantaged populations such as the elderly or disabled.

21-3 (b) (4): Redefine what areas of the yard may be used for extended parking beyond the driveway, aka lawn parking. The current use of the term “contiguous” has caused confusion for some citizens.

21-3 (b) (15): Require that replacement materials use to repair fences and walls be compatible with the existing materials.

21-3 (b) (16): Add a requirement that all swimming pools must be fenced and that all gates must be self-closing and self-latching. This requirement existed in the City Code, Chapter 31, but the Chapter was repealed when amendments were made to the Building Code.

21-3 (b) (20): New section – require that bee, insect or rodent infestations be removed from private property.

21-4: Include a section that requires broken windows to be repaired on owner-occupied homes which is consistent with the provisions for rental properties. Also require that all doors, including garage doors be maintained in good condition.

21-26 (f): Strike this provision as it is redundant and unnecessary due to the provisions in 21-42.

21-37 (i): Amend the language in this section to require that smoke detectors need to be installed in accordance with the currently adopted building code. This will require retrofitting in some units; however staff from the Fire Department, Building Safety Division and Code Compliance division feel that this safety element is warranted.

21-42 (b): Clarify the language in this section to indicate that the fine schedule adopted by City Council is absolute.

21-43 (b) (3): Revise the compliance period for Rental Housing Code violations to reflect time periods for compliance for Article II, Rental Housing. Currently, a Resolution exists that reflects time periods for compliance for Article I, Nuisances. Time periods for Article II will be consistent with those reflected for Article I, with the exception of the need to supply essential services such as heating or cooling, running water or electricity. This time period is being reduced from two (2) days to an "immediate" correction.

21-43 (e): Strike the provision that allows an appeal to a notice to comply for rental housing. Since the adoption of the rental housing code provisions, the appeal process has been used only two times, and since 1999, has not been used at all. As there is no penalty associated with a notice to comply, aggrieved parties have not used this process, instead using the Court Hearing Officer process that is associated with a citation, should they want to appeal the determination of a code violation.

21-43 (e): New provision, elaborating on notification to Habitual Offenders.

21-53: Revise the Abatement section to allow for additional abatements to be authorized by the Hearing Officer and/or Board of Adjustment when a repeated violation occurs for up to one hundred eighty (180) days and clarifying the appeal requirements.

**Proposed Amendment to Fine Schedule
Chapter 21, Nuisance and Property Enhancement Code**

| | Current 1 st Violation | Current 2 nd Violation | Current 3 rd Violation | <i>Proposed 1st Violation</i> | <i>Proposed 2nd Violation</i> | <i>Proposed 3rd Violation</i> |
|---|---|---|---|--|--|--|
| Violations – Aesthetic | \$100 | \$200 | \$300 | \$150 | \$250 | \$350 |
| Violations – Essential Services | \$200 | \$400 | \$600 | \$250 | \$450 | \$650 |
| Violations – Heath, Safety & Welfare | \$300 | \$600 | \$900 | \$350 | \$650 | \$950 |
| Zoning Violations | \$120 | \$320 | \$770 | \$120 | \$320 | \$770 |
| Habitual Offender (new) | n/a | n/a | n/a | <i>\$500 + sum of other fines</i> | <i>\$500 + sum of other fines</i> | <i>\$500 + sum of other fines</i> |

- Failure to pay or appear in court on the date cited results in a default judgment and an additional penalty of \$50 per violation.
- Failure to pay fines in full by the date cited results in an additional \$20 late fee.
- The maximum penalty that can be imposed is \$1,000 per violation and not more than \$2,000 per day per property.

Time Frames for Nuisance & Property Enhancement Code Compliance
Current and Proposed, November 2007

| Chapter 21, Nuisances & Property Enhancement, Article II, Rental Housing | Current Minimum Time Frame for Corrective Action | Proposed Minimum Time Frame for Corrective Action <i>(Health/Safety/Welfare issues such as heating/cooling/toilets or smoke detectors require an immediate correction/7 day maximum)</i> |
|---|--|--|
| Section 21-25 – Rental Registration | 10 days | 10 days |
| Section 21-38 Maintenance Subsections (a-k) & (m-q) Tall weeds or grass Dead trees/limbs Grass in gravel Installation of landscaping Paint Roof All others | 10 days for minor defects 2 days for running water, gas, or electrical service and reasonable amounts of hot water or heat, air conditioning or cooling, or essential services (TCC Section 21-43 (b) (3)) | 14 30 14 30 30 30 14 |
| Section 21-31 Sanitary Facilities | | 7 |
| Section 21-32 Food Preparation Facilities | | 7 |
| Section 21-33 Electrical & Lighting | | 7 |
| Section 21-35 Doors Windows, Ventilation | | 7 |
| Section 21-36 Space & Occupancy | | 30 |
| 21-34 Thermal Environment | | 7 |
| 21-37 Safety & Security | | 14 |
| 21-38 (l) Maintenance (swimming pool maintenance) | | 7 |

Zoning Ordinance Violations

| | | |
|-----------------------------|----------------------|----|
| Home Occupations | Currently not stated | 14 |
| Fences/Walls | | 14 |
| RV's/Boats | | 14 |
| Excessive Persons | | 30 |
| Child Care | | 30 |
| Accessory buildings/setback | | 30 |
| Animals - number or type | | 14 |
| Illegal land use | | 30 |
| Parking | | 14 |